Fiscal Commitments and Contingent Liabilities (FCCL) Framework

- August 2024

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1. EXECUTIVE SUMMARY

Overview of the FCCL Framework

The Fiscal Commitments and Contingent Liabilities (FCCL) Framework is a strategic tool designed to manage the fiscal implications of Public-Private Partnerships (PPPs) in Anambra State. By identifying, assessing, and mitigating fiscal risks, the framework enhances financial transparency, sustainability, and accountability in PPP projects.

State PPP Objectives:

- Promote private sector participation in critical infrastructure development.
- Leverage PPPs to achieve sustainable economic growth and job creation.
- Ensure fiscal responsibility while meeting infrastructure demands.

Support for Fiscal Sustainability

The FCCL Framework supports fiscal sustainability by:

- Ensuring informed decision-making on fiscal commitments.
- Minimizing unforeseen fiscal burdens from contingent liabilities.
- Enhancing public trust through systematic risk disclosure and accountability.

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2.1 INTRODUCTION

2.1.1 - Preliminaries

- The Soludo Solution – Manifesto anchors three major areas requiring major infrastructure uplift (Economic Transformation and Enablers; Social Agenda; and Environment)
- The Anambra State Industrial Framework (April, 2023) provides a mix of pathways for industrializing the state, offering the options of Industrial parks, Export Processing Zones, Free Trade Zones and Logistics parks.
- Anambra Vision 20270 (2021-2070) projects that on a base growth scenario, on average, that state would require ₦0.56tr, ₦11.98tr and ₦61.23tr investments in The Short Term – 2021 to 2025, Medium Term – 2026 to 2040 and Long Term – 2041 to 2070 respectively.
- The ANSIPPA Law (2014) establishes the Anambra State Investment Promotion and Protection Agency for the Protection, Monitoring, Coordination and Assistance of current and potential investors within the State and to provide for related matters.
- Anambra State Executive Order 9 of 2023, names ANSIPPA as the One Stop Shop for all investments in the state, with an objective to ensure that Public Private Partnership for the provision and development of public infrastructure or public assets in the State are in accordance with prevailing government policy and public interests.

	Term	Low growth Scenario	Base growth Scenario	High growth Scenario
Average Investment Required	Short Term – 2021 to 2025	N0.51 Trillion	N0.56 Trillion	N0.59 Trillion
	Medium Term – 2026 to 2040	N6.34 Trillion	N11.98 Trillion	N17.87 Trillion
	Long Term – 2041 to 2070	N24.09 Trillion	N61.23 Trillion	N118.28 Trillion

*Excerpts from Vision 2070

These indicators highlight the importance of PPPs to Anambra's Development Goals

2.1.2 - Public-Private Partnerships

- The Public Enterprises (Privatisation and Commercialisation) Act 1999 established a legal basis for privatisation and commercialisation in Nigeria and set up the National Council on Privatization (NCP) to determine political, economic, and social objectives for the privatisation and commercialisation of public enterprises.
- Nigeria, particularly Anambra State is open to public-private partnering in fields including leasing, franchising, concessions, equity, and joint venture participation. Many states are focusing on facilitating PPP projects, with some states estimating that 70 per cent of its ongoing and planned projects will be in PPP format.
- The PPP Initiative Projects aims to increase private investment into the PPP infrastructure market and the core infrastructure sectors. The project encompasses capacity-building for ministries, departments and agencies, and technical support for regulatory reform. It also offers support for project preparation and advisory services to develop commercially viable PPP transactions.
- The Infrastructure Concession Regulatory Commission (ICRC) is Nigeria's main PPP unit with a key objective to foster investment in the country's national infrastructure through private sector funding. The ICRC assists the federal government and its ministries and development agencies in implementing and establishing effective PPP processes. One of the main PPP tools used recently by the federal government and which could be adopted by ANSG is the Road Infrastructure Tax Credit Scheme (RITCS).

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2.1 INTRODUCTION – Cont’d

2.1.3 - ANSG PPP Participating Options

Anambra Vision 2070 presents several PPP options for State utilization:

- Road Infrastructure Tax Credit Scheme
  - Engagement with State Contractors
  - Support/Guarantee to an Eligible Project
  - Engage State Owned Enterprises
- Tax Credit for Individuals
- State Tax Credit Schemes
- Federation Account Allocation
- Counterpart Funding
- Donor Development Funds and Blended Finance Instruments
  - ***Junior Equity:*** Shares divided into classes (e.g., Class A, B, C) with varying levels of subordination.
  - ***Subordinated Debt:*** Debt that is repaid after senior debt but before equity in case of default.
  - ***Concessional Debt:*** Debt with a lower interest rate compared to commercial debt.
  - ***First-Loss Capital:*** Investment where the investor takes on initial losses to encourage other investors.
  - ***Grants:*** Financial awards with no expected repayment.
  - ***Technical Assistance:*** Support for capacity building programs.
  - Guarantees: Protection against various forms of risk for investors.

Although PPPs are viewed as means of leveraging financial resources from the private sector, government assumes fiscal commitments over the life of the contract as set out under the PPP agreement.

2.1.4 - The FCCL Framework

Fiscal Commitments and Contingent Liabilities (FCCL) refer to the obligations that governments undertake in PPP projects. These include:

•**Direct Liabilities**: Contractual obligations requiring immediate or long-term government payments.

•**Contingent Liabilities**: Potential obligations triggered by future events, such as guarantees or financial support for distressed projects.

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2.2 INTRODUCTION – FCCL

2.2.1 – Understanding FCCL

Fiscal Commitments

- Specified in PPP agreements.
- Can also come from **implicit sources**.
  - For example, a letter of support for a specific project may be considered a type of guarantee for some stakeholders.
  - Also, political or socially sensitive projects may be expected to be rescued by government in the event of financial distress.

Type of FCCL	Examples
Direct - Explicit Liabilities / Fiscal Commitments	• Up-front commitments such as contribution to capital investment, land acquisition costs, etc. • On-going commitments such as availability payments, output based subsidies, operational subsidies, and capital subsidy obligations
Contingent Liabilities (CLs) / Fiscal Risks	• State guarantees on project loans, minimum levels of demand / revenue guarantees, exchange rate risks, put call option agreements (PCOA), etc. • Termination payment in case of concessionaire default, contracting authority default, or force majeure
Indirect - Implicit Liabilities	• Implicit liabilities that are not explicit because they are not expressed and defined contractually but they are, nonetheless, expected to be the responsibility of government. Perhaps the most obvious and often overlooked liability is the implicit guarantee from governments that ultimately underwrites all public infrastructure and services.

Illustrative public liabilities in a PPP scheme

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INTRODUCTION – FCCL

Fiscal risk

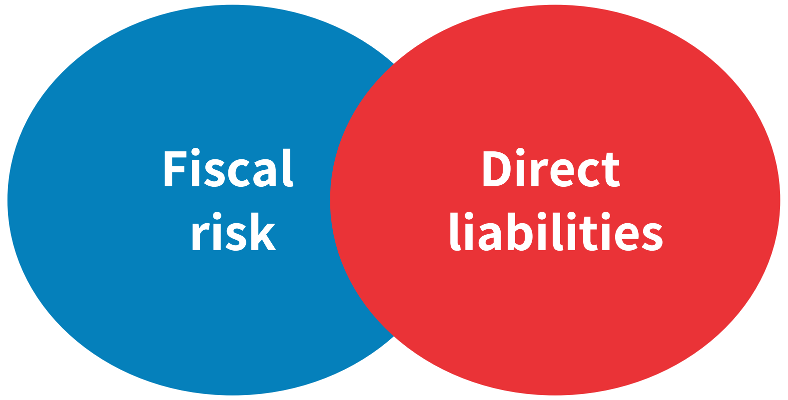
Definition

Factors that cause fiscal outcomes to deviate from expectations or forecasts.

Cause

Arise from the occurrence of an uncertain event and from the realization of macroeconomic shocks, or other unpredictable variables that trigger contingent liability obligations.

CLs are by definition fiscal risks.



Direct liabilities may be subject to fiscal risks when they may change because of uncertain parameters.

- Within the context of PPP agreements, other sources of fiscal risks than those embedded in direct or contingent liabilities merit attention.
- Other sources of fiscal risks are those channeled through provisions – controlled by the government– of the PPP contract. For example, an extension of the project scope – allowed in the PPP contract and subject to government's consent – that modifies the costs of the project to the government.
- Other sources of fiscal risk are outside the scope of liabilities to be paid by the government to the private partners. For instance, a reduction of user-based revenues used by the government to fund a project. This reduction does not affect the government's liabilities to the concessionaire (that may be fixed and independent of user-revenues performance) but it does have a fiscal impact.

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2.2.2 - Objectives of the FCCL Framework for Anambra State

Identify and Assess Fiscal Risks: Systematically evaluate potential fiscal obligations arising from PPP projects.

Promote Informed Decision-Making: Equip policymakers with tools to analyze project affordability and sustainability.

Enhance Transparency and Accountability: Establish mechanisms for disclosing fiscal commitments and contingent liabilities.

Strengthen Institutional Capacity: Build the technical expertise of state institutions to manage fiscal risks effectively.

Support Sustainable Development Goals: Align PPP initiatives with Anambra State's Vision 2070 and infrastructure priorities.

Why is FCCL Important in PPPs?

- PPPs often require government commitments to attract private sector investment.
- Without proper FCCL management, fiscal risks can lead to unsustainable debt and financial instability.
- A robust FCCL framework ensures long-term economic resilience and investor confidence.

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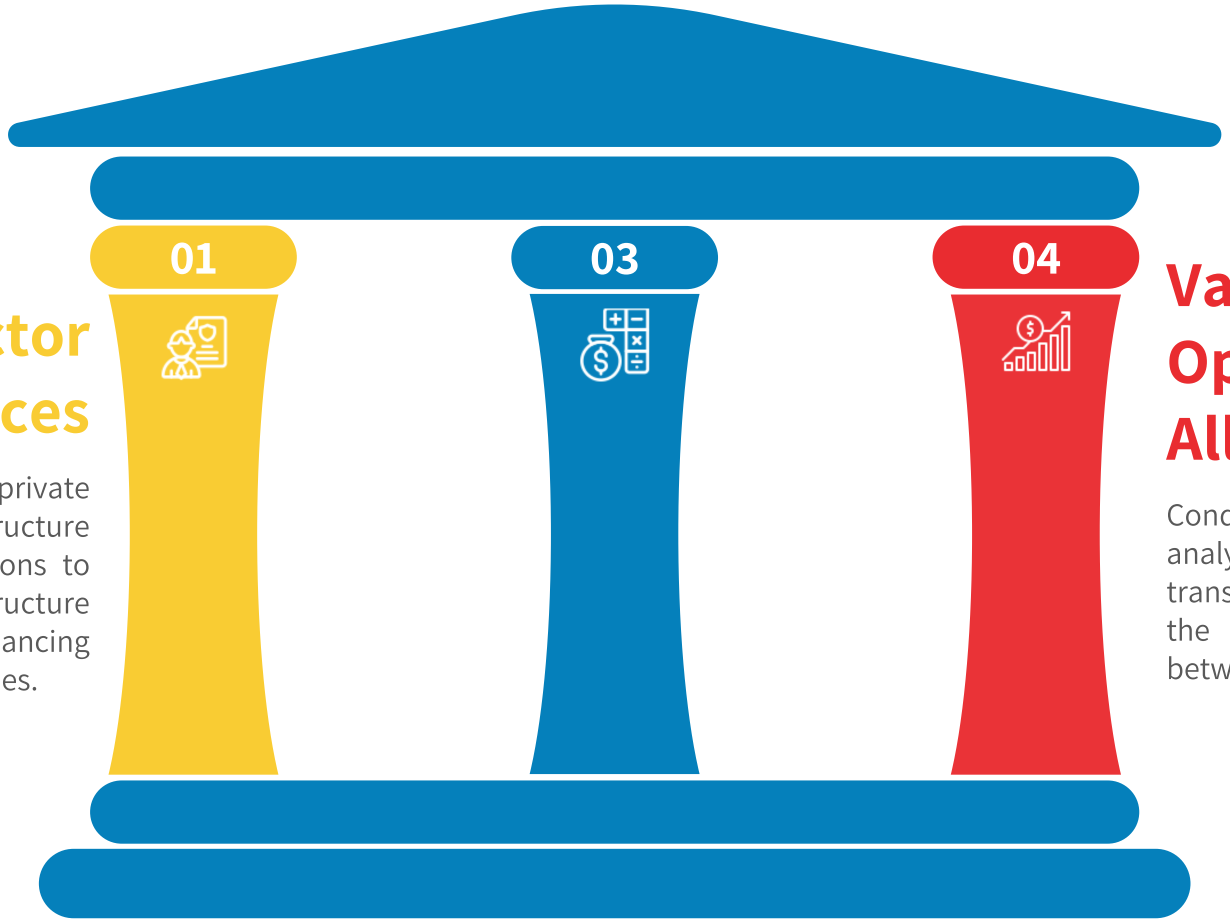
3.1 FCCL – Policy Context (Introduction)

ANSG PPP Framework Principles



Private Sector Resources

Utilize PPP models to attract private investment in infrastructure projects.Grant long-term concessions to private operators for infrastructure development.Encourage private financing and joint ventures with public entities.

Value for Money and Optimal Risk Allocation

Conduct rigorous financial and economic analyses to assess project viability.Implement transparent procurement processes to select the best partners.Carefully allocate risks between public and private sectors.

Fiscal Discipline and Accountability

Define clear project objectives and scope.Develop strong contractual frameworks.Implement regular financial reporting and independent oversight.

Key Infrastructure and Development Goals	
Vision 2070	Long-term strategic plan to position Anambra as a leading economic hub.
	Focus on industrialization, urban development, and sustainable energy.
ANSIPPA Priorities	Investment in critical sectors like agriculture, real estate, and transport.
	Strengthening investment incentives to attract private capital.
State's Fiscal Targets and Limitations	
Fiscal Targets	Maintain debt sustainability while increasing infrastructure investments. Limit direct government exposure to contingent liabilities.
	Limit direct government exposure to contingent liabilities.
Limitations	Limited internally generated revenue (IGR). Reliance on federal allocations and development grants.
	Reliance on federal allocations and development grants.

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3.2 - Existing Regulatory Framework and Relevant Laws

Relevant Law	Relevant Provisions and Impact
Anambra State executive Order 9 (2023)	**Provisions**: Establishes ANSIPPA as the coordinating body for PPPs; defines guidelines for PPP project implementation. **Impact**: Enhances institutional capacity and ensures a structured PPP process.
State Budget and Appropriation Laws	**Provisions**: Requires disclosure of fiscal commitments in budget documents. **Impact**: Promotes accountability and transparency in fiscal planning.
Anambra Fiscal Responsibility Law (2010)	**Provisions**: Regulates state borrowing and contingent liabilities management. **Impact**: Provides a framework for monitoring and disclosing fiscal risks. FRC, established under the ambit of the FRL. The FRL defines the procedure for the preparation and approval of the Medium-Term Expenditure Framework (MTEF) The MTEF must also contain: • A Debt Statement which describes the fiscal debt liability of KDSG • A Statement describing the nature and fiscal significance of contingent liabilities and measures to minimize/ mitigate such liabilities. The FCCL framework will have to comply with the requirements of the MTEF to ensure adherence to the provisions of the FRL.

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3.2 - Existing Regulatory Framework and Relevant Laws

Relevant Law	Relevant Provisions and Impact
Anambra State Public Procurement Law (2011)	**Provisions**: Establishes State council on public procurement and the Bureau of public procurement Provides the fundamental principles for Public Procurements, Procurement management and Organisation, Procurement Methods, Procurement of consultancy services, Procurement Surveillance and Review, Disposal of Public Property, Code of Conduct and Offences within the ambit of Public procurement. The \ANSG PPP Manual prescribes that representatives of KADPPA are included in the tender committees for procurement of PPP projects.
ANSIPPA Law (2014)	Provides for the Establishment of the Anambra State Investment Promotion and Protection Agency (ANSIPPA), entrusted wit the responsibility of investment promotion and facilitation.
Anambra State Debt Sustainability Analysis and Debt Management Strategy (State DSA-DMS)	Periodically reports on the State Fiscal and Debt Framework; the State Revenue, Expenditure, and Public Debt Trends; Debt Sustainability Analysis and Debt management Strategy.

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3.3 - FCCL Management Framework

Objective

Provide a methodological approach for public officials of the:

- ANSIPPA Investment Promotion and Protection Agency (ANSIPPA),
- Ministry of Finance (MoF),
- Fiscal Responsibility Commission (FRC),
- State Budget and Economic Planning Ministry (BEP) and
- the Contracting Authorities (CA)

to assess and manage FCCL arising from PPP projects

FCCL framework will be mandatory for all PPP projects submitted for consideration and approval by the ANSIPPA Board (or the PPP Department established within ANSIPPA) from the date of framework adoption.

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4.1 - Institutional Framework for FCCL

- While the primary FCCL oversight role is assigned to the FRC, the general governance and institutional framework, including the specific functions that need to be undertaken to manage direct and contingent liabilities during the PPP project lifecycle, is shared.

Function	Objectives	Role/ Responsibility
Preparing	To develop a project design that will be bankable and ensure that the risks the government will bear are consistent with good risk allocation principles, borne at the lowest cost and with minimal fiscal impact.	**Contracting Authorities / ANSIPPA:** Project feasibility analysis and implementation plans.
Analysing	To inform decision making when the project is structured and approved, and provide a basis for monitoring and budgeting for liabilities.	**Contracting Authorities / ANSIPPA / Project Delivery Team (PDT)** Fiscal risk assessments and other tools for analyzing liabilities.
Approving	To ensure the use of government resources (which take the form of liabilities) are: focused on policy priorities; represent value for money; and are consistent with good fiscal management.	**ANSIPPA Board / ExCo** Centralised approval to ensure that PPPs are focused on the government's policy priorities, represents value for money, and are consistent with good fiscal management. **ANSG BPP, BEP, MoF** Allocated the overall responsibility of approving the fiscal commitments and contingent liabilities before submission to the ANSG Executive Council for approval.
Accepting	To clarify the government's commitment to its liabilities (i.e. financial obligations), and to ensure the executed contract is consistent with earlier analysis and approval	**Contracting Authorities, ANSIPPA, , MoF, MoJ** Involves the government executing formal instruments such as project agreements, issuing letters of support or performance undertakings with the purpose of guaranteeing that they will honour its obligations and commitments.

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4.1 - Institutional Framework for FCCL

Function	Objectives	Role/ Responsibility
Monitoring	To provide information needed to disclose, act on emerging issues and, if necessary, budget for liabilities	**Contracting Authorities, BEP, BPP, ANSIPPA** To help government track its exposure to fiscal risks from year to year, and improve its ability to take action to reduce the cost and/or likelihood of an event triggering a payment.
Budgeting and paying	To ensure resources are available to make payments promptly when required, improving credibility and clarity as to how costs of liabilities will be borne, and mitigating the fiscal impact.	**Contracting Authorities, BPP, MoF, BEP** Establishing a well-defined system for budgeting and paying for liabilities will ensure the government has the resources available to meet its obligations and mitigate the fiscal or budgetary impact of contingent liabilities.
Disclosing	To improve accountability for decision makers, and increase transparency of the government's commitments to third parties (such as credit agencies and lenders).	**FRC, BEP, ANSIPPA, BPP** Reporting on exposure to liabilities through the budget and government accounts to increase transparency and improve the accuracy and completeness of information available to external parties.
Mitigating	To help reduce the cost to government of bearing contingent liabilities by reducing the likelihood or cost of the occurrence of those liabilities.	**Contracting Authorities, MoF, BEP, ANSIPPA, BPP, FRC** Continuous monitoring of exposure to contingent liabilities from PPP projects, and actively managing that exposure where possible, by identifying and taking action on emerging issues.

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5.1 – Process For PPP Procurement in Nigeria

According to The World Bank (2017) Disclosure Diagnostic Report: Nigeria on Improving Transparency And Accountability in PPPs The Process For PPP Procurement in Nigeria on the Federal Level is divided into four broad stages.

NO	INSTITUTION(S)	ACTIONS
	Project Identification Phase	
1	MDA	Project identification and initiation; Preparation and submission of Project Concept Note to ICRC
2	MDA and ICRC	MDA consults ICRC to ensure viability and bankability of proposed projects; If project considered viable, ICRC advises MDA to initiate project development; MDA constitutes Ministerial Project Steering Committee and a Project Delivery Team.
3	ICRC and FEC	ICRC includes project in the pipeline of eligible projects for approval by FEC
	Project Development and Preparation Phase	
4	MDA	Where internal capacity is not available, Transaction Advisors engaged by the MDA through a competitive bidding process to produce the OBC
5	ICRC	OBC reviewed by ICRC (with input from FMOF); Certificate of Compliance issued
6	ICRC and FEC	OBC and Certificate of Compliance submitted to FEC for approval

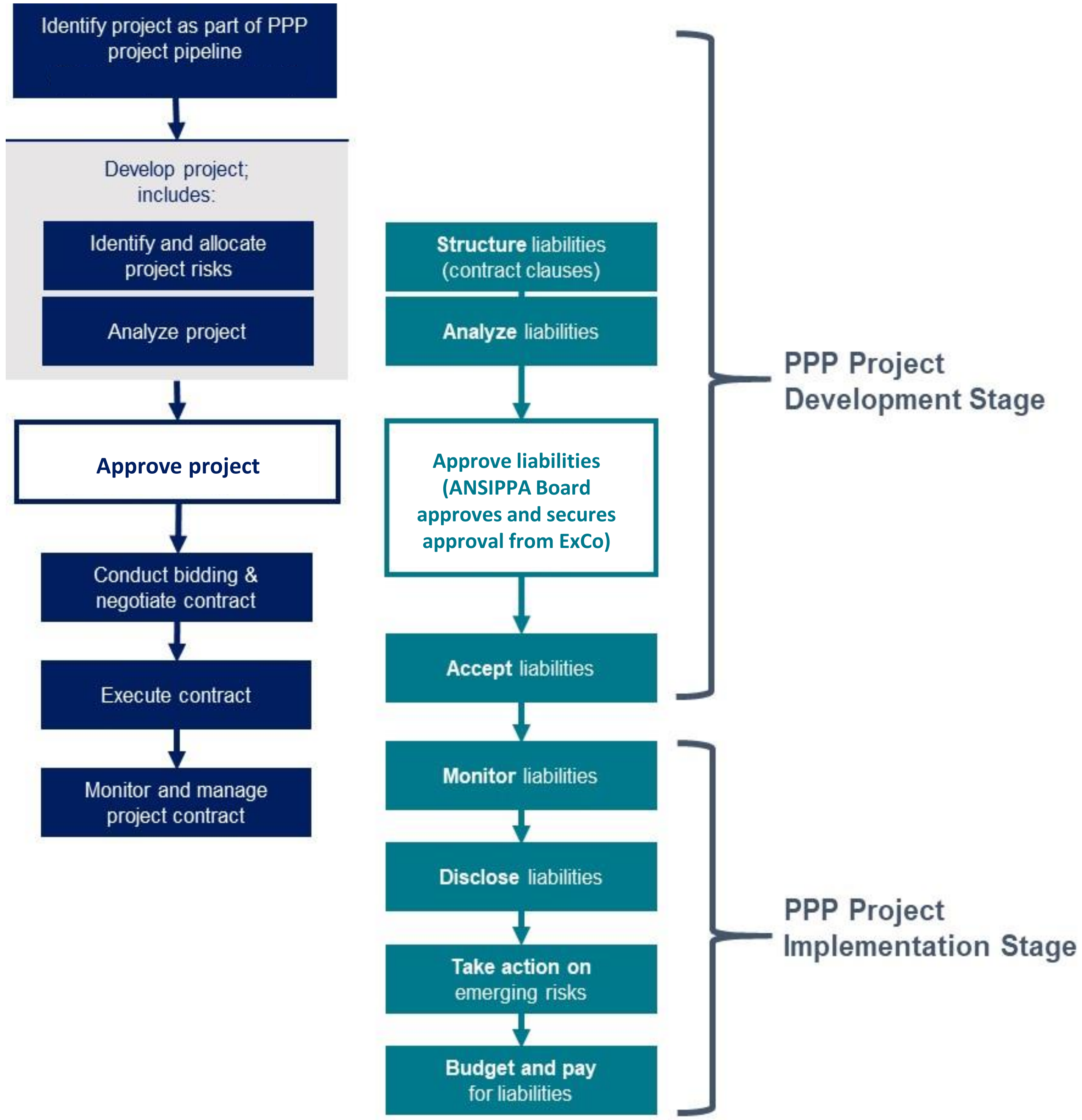
NO	INSTITUTION(S)	ACTIONS
	Procurement Phase	
7	MDA (through its transaction advisors)	Procurement commences with a competitive bidding process leading to identification of a preferred PPP project proponent
8	MDA, proponent, ICRC	After negotiations between the MDA and the proponent, the FBC is submitted to and reviewed by ICRC; Certificate of Compliance issued
9	MDA and FEC	FBC and Certificate of Compliance submitted to FEC for approval
10	MDA, proponent and ICRC	Contract signed between MDA and preferred PPP project proponent; ICRC takes custody of the contract
	Implementation Phase	
11	Proponent and MDA	Financial close achieved; project commences
12	MDA and ICRC	MDA and ICRC supervise and monitor the project throughout its life cycle

Source: ICRC.

Note: FBC = Full Business Case; FEC = Federal Executive Council; FMOF = Federal Ministry of Finance; ICRC = Infrastructure Concession Regulatory Commission; MDA = ministry, department, or agency; OBC = Outline Business Case; PPP = Public-Private Partnership.

The Approach is Adopted by the Anambra State Government, Breaking down the PPP Lifecycle process into two broad arms wherein Fiscal Liabilities can be identified by treatment

5.2 - FCCL MANAGEMENT ACROSS THE PPP LIFECYCLE



Project development — **Project implementation**

Project Development Stage

The assessment and required approvals of the project FCCL are carried out by:

- Initial assessment during project preparation stage, through feasibility studies including project risks analysis and finance structuring
- Approval of initially assessed FCCL by the required institutions
- Updated assessment during procurement (i.e. prior to PPP agreement signature) taking in account variance based on the contracting authorities' assessment and bids received
- Checking accurate representation of FCCL in the final version of the project agreement

Project Implementation Stage

Monitoring and recording of FCCL are made through annual budget documents that need to provide systematic disclosure of key fiscal risks and indications of potential impacts.

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6.1 - FCCL technical guidance (I).

Purpose:

1 Develop an analytical process to identify, assess and monitor FCCL during the project life cycle of PPP projects

2 Detail a methodology for implementing the tools involved in the management of FCCL including pre-formatted tools for the identification and quantification of FCCL.

Project Development Stage

Design project → Prepare project → Procure project

The FCCL framework includes:

- Identification and assessment of fiscal commitments and risks, and
- Assessment of affordability. Both activities will help authorities to take well-informed decisions over the project.

Main tools:

- Identification and evaluation of PPP fiscal risks through the PFRM and Project Fiscal Risk Register (PFRR)
- Calculation of FCCL through the FCCL Register

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6.2 - FCCL technical guidance (II).

Purpose:

1 Monitor FCCL during the implementation of PPP projects to manage risks and trigger mitigation

2 Disclosure of FCCL for transparency and accountability.

3 Accounting for FCCL appropriately in the ANSG budget and financial statements

Project Implementation Stage

Monitoring — Disclosing — Accounting

The FCCL framework includes:

- Monitoring requirements and frequency,
- Reporting and disclosure requirements: and
- Accounting framework.

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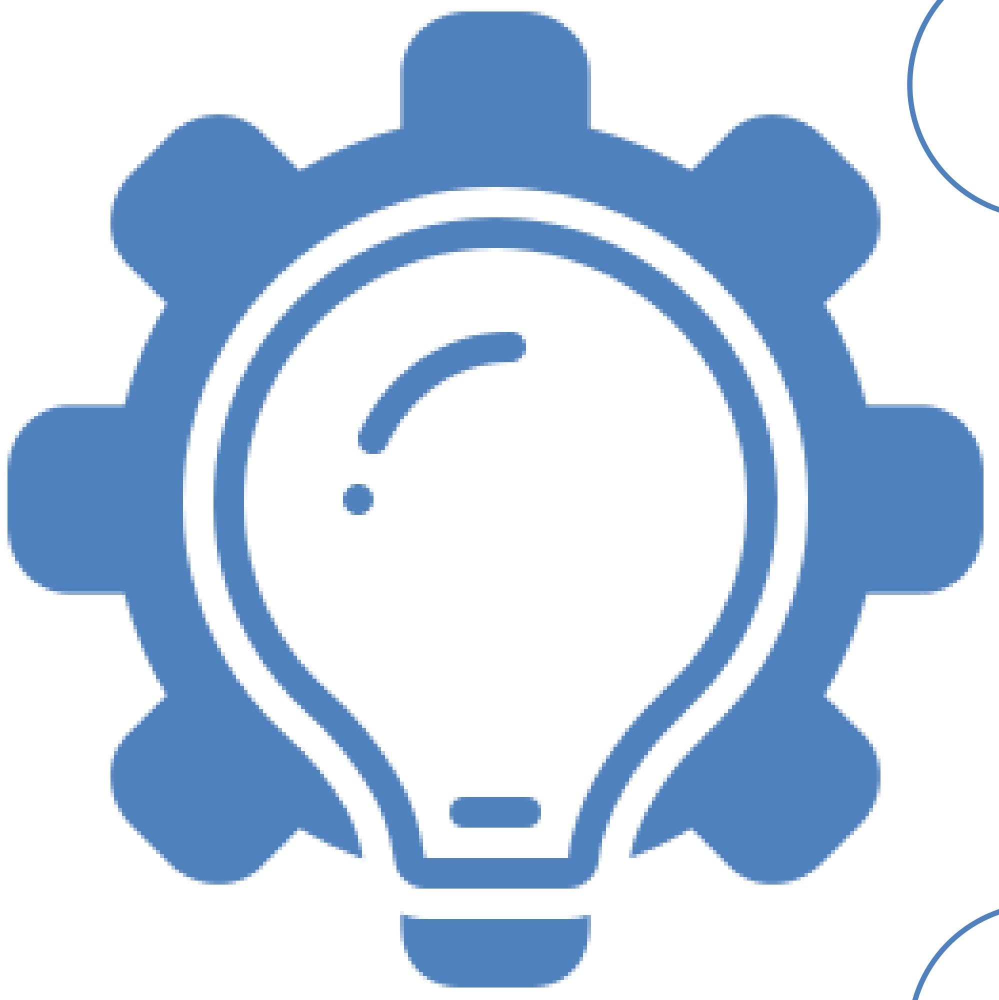
6.3 - Core Tools and Methodologies



- Project Fiscal Risk Matrix (PFRM): Steps for identifying and evaluating risks.
- Project Fiscal Risk Register (PFRR): Document fiscal risks and track mitigation progress.
- Affordability Analysis: Evaluate fiscal impact and sustainability of commitments.
- Contingent Liability Register: Record and track both direct and indirect liabilities.

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7.1 - The Project Fiscal Risk Matrix (PFRM)

Preparation of a PPP project

Assessment and allocation of project risks should be completed

ANSIPPA / CA
(or the Transaction Advisors - CardinalStone)

Create a risk matrix and a risk register, documenting the evaluation of the likelihood and impact of each risk

Periodically assessed by the CA

- Objective of **PFRM** is to support the **identification, assessment, and mitigation of common fiscal risks from each specific PPP project**.
- Prepared on a project-by project basis as part of OBC
- Overall assessment of fiscal risks of a PPP project follows a **six-step approach**.

Identification	• 11 Risk categories • Sub-categories
Likelihood	• Low • Medium • High
Fiscal Impact	• Low • Medium • High
Risk rating	• Equal to [Likelihood x Fiscal Impact] • Irrelevant, Low, Medium, High, Critical
Mitigation measures	• Is mitigation measure in place? Yes or No
Priority actions	• Function of Rating and Mitigation Measure • No action, Low / Medium / High, Critical

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7.1 - The Project Fiscal Risk Matrix (PFRM)

7.1.1 – (A) PFRAM approach

Identification of fiscal risks (and allocation)

The identification of fiscal risks focuses on those risks that may have significant fiscal implications.

In doing so, it looks into both contractual risks and other risks not allocated directly by contract (for example, risks arising from the governance structure, legal framework, or government institutional capacity). It does not assess all of the potential risks that can arise during the project cycle

Risk categories		
	Main Risk Category	Number of Risks Subcategories
1	Governance Risks	3 detailed risks
2	Construction Risks	11 detailed risks
3	Demand Risks	7 detailed risks
4	Operation & Performance Risks	6 detailed risks
5	Financial Risks	4 detailed risks
6	Force Majeure Risks	No Subcategories
7	Material Adverse Government Actions (MAGA)	No subcategories
8	Change in Law	No Subcategories
9	Rebalancing of Financial Equilibrium	3 detailed risks
10	Renegotiation Risks	No Subcategories
11	Contract Termination Risks	2 detailed risks

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7.1 - The Project Fiscal Risk Matrix (PFRM)

Risk Identification		Allocation	Likelihood	Fiscal Impact		Rating	Mitigation
Category	Event type	Govt/Private /Shared	Probability of occurrence	Base Costs	Cost of occurrence		Measures and costs
Governance	Risk A						
	Risk B						
Construction	Risk A						
	Risk B						
	Risk C						
Demand	Risk A						
Operation	Risk A						
	Risk B						

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7.1.2 – (B) Assessment of likelihood risks

After identifying the relevant risks for a PPP project, the evaluator shall assess the likelihood of such risks materializing in the future.

Initially, it is sufficient to identify whether the likelihood is low, medium, or high. A number of factors can help determine the likelihood. For example, the logic illustrated in the table below could be used as a reference.

	Low	Medium	High
Likelihood	• Very unlikely but not negligible • Would require highly unusual circumstances	• Likely and possible • Not unprecedented	• Very likely, almost certain • Extensive precedents

In case the risk rating is high, and its further assessment is a priority in accordance with the project heat map, the probability of occurrence may need to be determined for the purpose of contingent liabilities monitoring

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7.1.3 – (C) Estimation of fiscal impact of risks

Project Officer (PO) / Accounting Officer (AO):

Evaluate the potential fiscal impact of a particular risk in a holistic manner from a qualitative perspective, providing as much information as possible to support the assessment of low, medium, or high.

For instance, this qualitative assessment could be made by comparison with the state GDP or with the project costs. The fiscal implications of governance risk materializing would be reflected also in terms of the government's loss of reputation, efficiency, availability, and transparency.

Fiscal impact assessment of identified risks

Scale	Value	Fiscal Impact
Low	< 0,1% of GDP or < 5% of CAPEX	• Impact on government deficit and debt lower than X % of GDP (accumulated construction cost of the asset) • Minimal damage to government's reputation, service availability, and operation
Medium	0,1%-0,2% of GDP or 5%-25% of CAPEX	• Impact on government deficit and debt between X% and Y% of GDP (accumulated construction cost of the asset) • Limited damage to government's reputation, service availability, and operation
High	>0,2% of GDP or >25% of CAPEX	• Impact on government deficit and debt above Y % of GDP (accumulated construction cost of the asset) • Significant damage to government's reputation, service availability, and operation

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7.1.4 – (D) Determination of risk taking

The qualitative likelihood and fiscal impact are put together to estimate the overall risk rating (typically called the *severity of the risk*). This is done by combining the likelihood and fiscal impact, as show in Table 3-5. Risks assessed as having a high likelihood and a high fiscal impact, would be regarded as "critical". A "high" risk rating would be the result of a high likelihood and a medium fiscal impact, as well as a medium likelihood and a high fiscal impact.

Example of heat map based on risk rating

Risk Rating = Likelihood x Fiscal Impact

Fiscal Impact	High	Medium	High	Critical
	Medium	Low	Medium	High
	Low	Irrelevant	Low	Medium
		LOW	MEDIUM	HIGH
			Likelihood	

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7.2 - The Project Fiscal Risk Matrix (PFRM) – Risk Mitigation

7.2.1 – (E) Identification of mitigation strategy

The question is whether there are measures in place to mitigate the potential fiscal impact. Possible mitigation measures vary with the risks.

Appendix 1

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7.2.2 – (E) Determination of priority actions

Based on the risk rating and the mitigation measures, an assessment of the priority of the required actions is to be undertaken as demonstrated in Table 3-6. The more severe risks - those with a high rating - should be addressed first. Risks rated as critical, paired with no mitigation measures in place, would result in the need to implement a "critical" priority action; the priority would be considered a "high priority" if mitigation measures exist. Addressing the less important risks, even if they are an easy fix, does not improve the overall risk profile of the project and does not reduce the risk for the government

Prioritization of risk mitigation measures

Priority action = Risk rating x Mitigation measure

Mitigation measure		Irrelevant	Low	Medium	High	Critical
	NO	No action	Medium priority	High priority	High Priority	Critical
	YES	No action	Low priority	Medium priority	Medium priority	High priority

Risk Rating

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7.3 - The Project Fiscal Risk Matrix (PFRM) – Risk Mitigation Measures

- Some suggested types of mitigation measures by the Government:

1

Preventative measures

To limit the possibility of an undesirable outcome. Some examples are: insurance products, risk guarantees (such as those provided by financial institutions to mitigate the risk of the public entity failing to perform its financial obligations), financial instruments (to mitigate financial risks, such as interest rate, exchange rate, commodity prices) and provisions in such instruments to cap the risks based on a pre-determined thresholds on a project-to-project basis.

2

Corrective measures

To correct undesirable outcomes. For instance, a contingency plan in case of natural disasters, or in case of in case of contract termination.

3

Detective measures

To identify instances of undesirable outcomes. Here we find all monitoring activities and reports. For example, if government provides a termination payment in case of default of the contracting authority, it shall monitor financial performance and CA's compliance with its obligations.

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7.4 - PFRM – Heat Map

- **The PFRM which will provide for a heat map for the monitoring of fiscal risks during the project life cycle.**

Project fiscal risk matrix

Risk identification	Likelihood	Fiscal Impact	Risk Rating likelihood Impact	Mitigation strategy is it in place?	Priority actions	Suggested Mitigation Strategy
Governance Risks	Low	Medium	Low	No	Medium Priority	
Construction Risks	Medium	High	High	Yes	Medium Priority	
Demand Risks	Medium	Low	Low	No	Medium Priority	
Operational and Performance risks	Low	Low	Irrelevant	Yes	No action	
Financial risks	Medium	Medium	Medium	No	High Priority	
Force Majeure	Low	Low	Irrelevant	Yes	No action	
Material adverse government actions	Medium	Medium	Medium	No	High Priority	
Change in law	Medium	High	High	No	Critical	
Rebalancing of financial equilibrium	High	Medium	High	Yes	High Priority	
Renegotiation	High	Low	Medium	Yes	Medium Priority	
Contact termination	Medium	Medium	Medium	Yes	Medium Priority	

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7.5 - FCCL Register

- Quantify the contingent liabilities arising from the occurrence of a fiscal risk identified in the PFRM and analyzed the PFRR – based on priority actions determined on the project heat map and address the risks which have been qualified as critical or requiring high priority monitoring.
- Direct and indirect liabilities consolidated in FCCL Register:
  - Type of liability
  - Description of adjustment factors and trigger events
  - Location (which will depend on the stage of the project).

FCCL register

Fiscal Commitment	Type of fiscal commitment/Definition	Adjustment factors/Trigger events	Location
Project X			
Payment 1	Direct Explain payment concept, periodicity, and form of calculation	Detail adjustment factors and trigger events if apply	Specific location where this information was taken (Feasibility Study, PPP Contract, Letter of Support, etc.)
Payment 2	Contingent Explain payment concept, periodicity, and form of calculation		-
Payment 3	-	-	-

- Guidelines on what measures and methodologies to use for the assessment of typical FCCL.

FCCL register

FCCL	Estimate	Function of available information
Direct Liabilities		
Upfront payment Availability payment Availability payment a by adjusted permanently macroeconomic parameters Availability payment adjusted by contingent events	• Annual cost over life of project • Present value of payment stream for the period of agreement	• Base Case • Scenario analysis • Qualitative analysis of likelihood of reaching trigger values • Probability of occurrence
Contingent liabilities		
Revenue guarantee Debt guarantee Guarantee over annual payment by state-owned enterprise, local or subnational government	• Estimated annual cost over life of project • Estimated present value of payment stream for the period of agreement	• Scenario analysis • Qualitative analysis of likelihood of reaching trigger values • Probability of occurrence
Termination payment	• Maximum value	
Other fiscal risks		

Source: CPCS

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7.6 - FCCL Affordability Analysis

- **With the estimations of fiscal costs, the government must now check if the project is affordable. The three common instruments used to check affordability are:**

1

Comparing annual cost estimates against the projected budget

First instrument entails the CA and ANSIPPA checking whether the project is aligned with budget constraints and priorities.
The affordability analysis must be consistent to the overall liability and fiscal risk management of the P&BC.

2

Assessing the impact on debt sustainability

Fiscal commitments from PPPs are considered debt-like obligations. Hence, the BEP may consider the consistency of treatment of such obligations within the overall government liabilities and fiscal management framework. PPP commitments could be included in debt measures to determine a project's impact on overall debt sustainability.

3

Introducing limits on PPP commitments

Specific limits or thresholds on direct fiscal commitments of PPPs. The objective is to avoid tying up too much of the budget (within a specific sector or at aggregated level) in long-term payments.

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7.6 - FCCL Affordability Analysis Cont'd

Fiscal commitment	Cost	Indicator of fiscal affordability (Including projections over PPP contract length- beyond medium-term horizon)
Direct liabilities	• Estimated Annual payments • NPV	• Cost as percentage of ministry or sector agency, and national annual revenue / deficit-surplus budget • Cost as percentage of sub-national public debt • Cost as percentage of GDP
Guarantees	• Estimated annual payment, or expected average payment • NPV • (Base/Downside cases)	• Cost as percentage of ministry or sector agency, and national annual revenue / deficit-surplus budget • Cost as percentage of contingency line • Cost as percentage of public debt • Cost as percentage of GDP
Termination payment	• Estimated worst-case payment or expected average payment • NPV	• Cost as percentage of national budget • Cost as percentage of contingency line • Cost as percentage of GDP
Other fiscal risk	• Estimated worst-case payment or expected average payment • NPV • (Base/Downside cases)	• Cost as percentage of ministry or sector agency, and national annual revenue / deficit-surplus budget • Cost as percentage of contingency line • Cost as percentage of GDP

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8.1 - Training Programs for Key Personnel

Equip staff with the skills to identify, assess, and manage fiscal risks effectively.

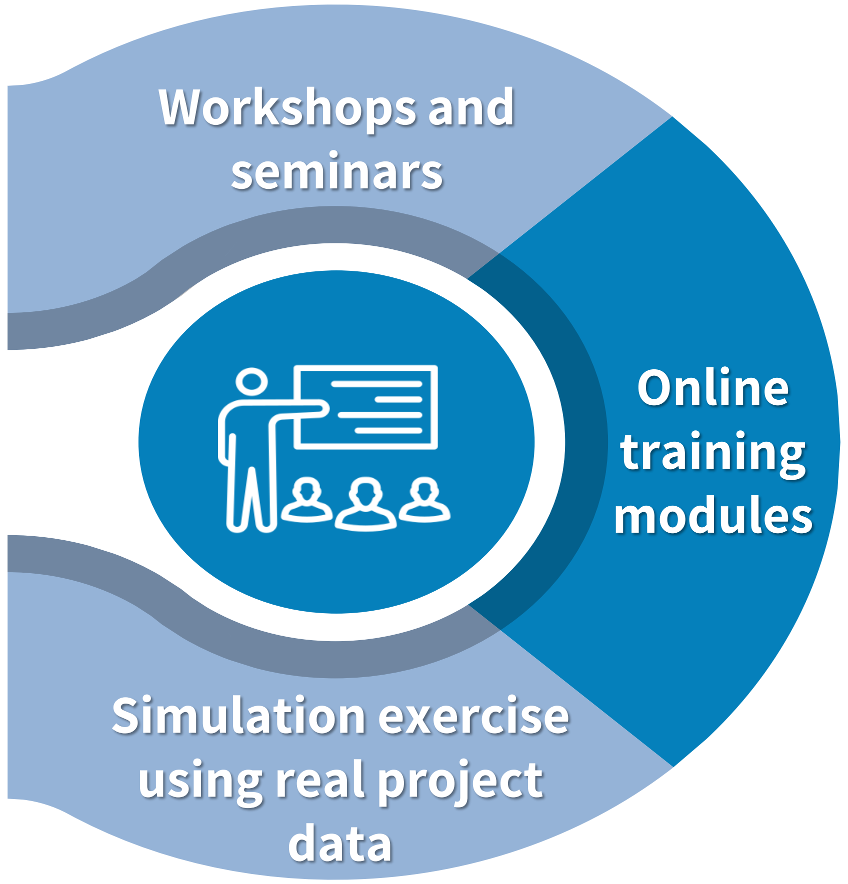
Learning Modules

- Fundamentals of Fiscal Risk Management.
- Using Project Fiscal Risk Matrix (PFRM) and Risk Registers.
- Affordability Analysis and Contingent Liability Monitoring.
- PPP Contract Structuring and Risk Allocation.
- FCCL Reporting and Disclosure Requirements.

*

- Dedicated FCCL team from ANSIPPA, EBP and Ministry of Finance.
- Development of an FCCL Management Manual.
- Partnerships with development organisations (e.g., World Bank, IMF).
- Policy support for mandatory FCCL training and framework adoption.

Delivery Methods



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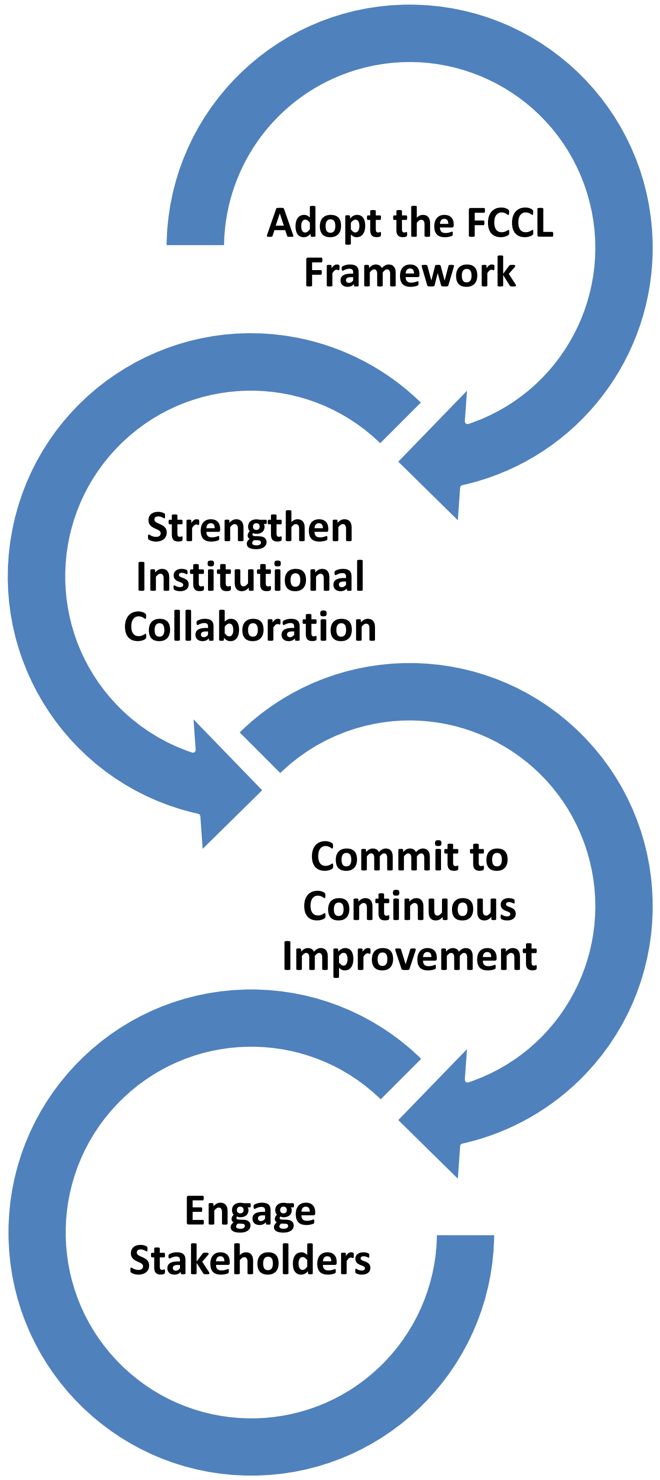
9.1 - Conclusion – The FCCL Framework

Sustainability	Accountability	Efficiency:
• Mitigates fiscal risks, ensuring long-term financial stability. • Aligns PPP projects with Anambra State's budgetary goals.	• Promotes transparency in fiscal commitments and liabilities. • Builds public trust through systematic risk disclosure.	• Optimizes resource allocation for infrastructure development. • Strengthens institutional capacity for managing c

Call to Action



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Appendix 1 – PFRAM Risks and Mitigation Measures.

1. Governance Risks

- **R1. If the Public Investment Management (PIM) framework is not strong enough to guarantee that only priority projects are selected, a non-priority project might be implemented and absorb public resources, crowding out priority projects and leading to efficiency losses. To mitigate this risk, the public investment management framework should to be reinforced.**
- **R2. If the Ministry of Finance (MOF) is not able to effectively manage fiscal risks arising from this project, the risks might be amplified, and the probability and impact of other fiscal risks may be higher than they would be with adequate experience and capacity. To mitigate this risk, capacity in the fiscal risk management team in the MOF/Budgetary authority should be strengthened.**
- **R3. If project and contract information is not disclosed adequately, public concerns regarding the governance of the project/contract may arise, preventing users from acting as independent auditors of the project and/or exerting pressure to change the project. To mitigate this risk, the government should put in place a strong communication strategy engaging stake holders and creating ownership of the project, together** with clear and standardized disclosure procedures for project information and, ultimately, contract disclosure.

2. Construction

- **R4. Risks related to land availability**

- If the land is not already available, the government might face additional fiscal costs arising from possible compensation for construction delays. To mitigate this risk, (1) a complete assessment of land needs should be undertaken prior to contract closure; (2) the land acquisition process should be prepared; and (3) buffers and flexibility clauses should be included in the contract.
- If the project might be canceled due to lack of land, the government might face costs due to compensation to the private partner and the project redesign. To mitigate this risk, the government should ensure land availability at an early stage of the project cycle.
- If the private partner has to pay for the land acquisition, the private partner might not be able to cope with the cost; the government would be confronted with the cost of project cancellation and retender, or renegotiation at higher fiscal cost. To mitigate this risk, the government should ensure land availability at an early stage of the project cycle or provide sufficient information regarding the need and value of the land to ensure that the private partner is able to cope with the cost.
- If the government has to pay for land acquisition, it may face additional fiscal costs arising from the acquisition and possible delays due to unavailability of land, which might lead to compensation payments for possible delays. To mitigate this risk, the government should (1) complete the assessment of land availability and cost prior to contract closure; and (2) build in buffers and flexibility clauses in procurement and contracts.

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- R5. Risks related to relocation of people and activities
- If people and/or activities are subject to relocation due to project implementation:
- If the government is paying for the relocation of people and/or activities and possible project delays, it will face the cost of relocation and compensation. To mitigate this risk, the government should undertake a timely assessment of relocation needs and engage in effective stakeholder management.
- If the private partner is paying for the relocation of people and/or activities and is unable to cope with cost, the government will be faced with the cost of project cancellation and retender, or renegotiation at higher fiscal cost. To mitigate this risk, the government should ensure timely assessment of relocation needs and provide sufficient information on relocation needs and costs.
- R6. Risks related to land decontamination
- If the government has to pay for land decontamination and the need for decontamination arises, this will result in fiscal costs. To mitigate this risk, the government should undertake a timely assessment of the need and cost of decontamination.
- If the private partner has to pay for land decontamination and is not able to cope with the cost, the government may face the cost of project cancellation and retender, or renegotiation at higher fiscal cost. To mitigate this risk, the government should (1) ensure a timely assessment of decontamination needs; and (2) should provide sufficient information on land condition.
- R7. Risks related to environmental and archeological issues
- If there is a possibility of facing environmental/archeological issues and the government has to pay for them, the government may face costs (1) for environmental and archeological issues; and (2) for compensation payments it might have to make to the private partner due to project delays. To mitigate this risk, the government should (1) specify environmental constraints prior to tender (including permits and licenses); and (2) develop a plan to deal with archeological findings.
- If there is a possibility of environmental/archeological issues and the private partner has to pay for them, the private partner might not be to cope with the associated costs; the government may be faced with the cost of project cancellation and retender, or renegotiation wat higher fiscal cost. To mitigate this risk, the government should (1) specify environmental constraints prior to tender (including permits and licenses); and (2) develop a plan to deal with archeological findings.
- R8. Risks related to geological issues
- If there is a possibility of geological issues and the government has to pay for them, it may face compensation payments. To mitigate this risk, the government should (1) ensure a timely assessment of the geological conditions and their implications for the project; and (2) develop a plan to deal with these issues.
- If there is a possibility of geological issues and the private partner must pay for them, the private partner might not be able to cope with the costs related to these issues; the government may be faced with the cost of project cancellation and retender, or renegotiation at higher fiscal cost. To mitigate this risk, the government should (1) ensure a timely assessment of the geological conditions and their implications for the project; and (2) provide sufficient information regarding geological conditions.

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- R9. Risks related to licensing
- If the project is subject to licensing and the government pays compensation for project delays due to delayed licensing, the government may face the costs of compensation for project delays. To mitigate this risk, the government should ensure that subnational governments are fully supportive of the project and that project deadlines are consistent with subnational regulations.
- R10. Risks related to failures/errors/omissions in project design
- If the government can be held responsible for design failures, errors, or omissions, it may have to pay compensation for failures in designs presented to the private partner if the cost of design risks is not fully transferred to the private partner. To mitigate this risk, the tender process and the contract should ensure that the private partner takes full responsibility for the design.
- R11. Risks related to inherent defects in assets transferred to the private partner
- If the government can be held responsible for any inherent defect in assets transferred to the private partner, it may have to pay compensation to the private partner for inherent defects and the costs of defect remediation. To mitigate this risk, the government should ensure a prior assessment of the quality of the assets to be transferred to the private partner, allowing for full pricing of identifiable defects.
- R12. Risks related to changes in project design and scope required by procuring agencies
- If the government is responsible for compensation due to changes in design and scope required by procuring agencies, it may have to compensate the private partner for net costs due to changes in the design and/or scope. To mitigate this risk, the contract should include provisions allowing for changes in the design/scope of the project, up to a predetermined limit. In addition, the accountability framework to monitor project cost overruns should be reviewed and improved, as necessary.
- R13. Risks related to changes in input prices
- If the government is responsible for compensation in the event of excess volatility in input prices, it may have to pay compensation for significant changes in input prices. To mitigate this risk, the volume and prices of the relevant inputs should be monitored, and sufficient funds should be allocated for expected compensation payments.
- If the private partner faces any excess volatility of input prices, the private partner may not be able to cope with significant changes; the government may be faced with the cost of project cancellation and retender, or renegotiation at higher fiscal cost. This risk can be mitigated by renegotiating the contract to reestablish financial equilibrium.
- R14. Risks related to changes in nominal exchange rate
- If the government is responsible for compensation in the event of excess volatility in nominal exchange rate, it may have to pay compensation for significant increases. To mitigate this risk, the volume of foreign currency required and the exchange rate should be monitored, and sufficient funds should be allocated for expected compensation payments.
- If the private partner faces any excess volatility in the nominal exchange rate, the private partner may not be able to cope with significant changes; the government may be faced with the cost of project cancellation and retender, or renegotiation at higher fiscal cost. This risk can be mitigated by renegotiating the contract to reestablish financial equilibrium.

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Appendix 1 – PFRAM Risks and Mitigation Measures.

3. Demand

If the PPP is fully funded by the government, and the payments are linked to the volume of service being provided:

- R15. If a cap is in place, the project may be confronted with much higher demand than included in the contract, which might require a costly renegotiation of the cap or require the government to purchase services from other providers. This risk can be mitigated by managing demand and possibly diverting demand to less costly alternative services.
- R16. If no cap is in place, the government may face higher than expected demand, leading to higher than expected costs. This risk can be mitigated by managing demand and possibly diverting demand to less costly alternative services.
- R17. If the project is suffering from insufficient demand, this may lead to project failure; the government may face costs for early termination or renegotiation. This risk can be mitigated by managing the demand or by renegotiating the contract to re-establish financial equilibrium.

If the PPP is fully funded by the government, and the payments are not linked to the volume of service being provided:

- R18. If demand is much higher than expected, the project may collapse, and the government may face the cost of early termination or contract collapse. This risk can be mitigated by managing or diverting demand, which could have a fiscal cost.
- R19. If demand is much lower than expected, the project might be challenged; the government would not face additional fiscal costs, but it would pay for a service that is not/not fully being taken up by the user. This risk can be mitigated by managing demand by increasing demand or diverting it from other projects.

If the project is either totally user-funded or funded by a combination of government payments and user fees:

- R20. If users consider user fees—regulated or not—excessive relative to services received, this might have a bearing on the reputation of the government. This risk can be mitigated by effective communication.
- R21. If the project is suffering from insufficient demand, this might lead to project failure, presenting the government with additional fiscal costs for early termination or renegotiation. This risk can be mitigated by managing the demand or by renegotiating the contract to re-establish financial equilibrium.

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Appendix 1 – PFRAM Risks and Mitigation Measures.

4. Operation & Performance

- R22. If the PPP contract does not ensure that the government has full access to information on project performance, the government may be unable to effectively manage the contract. To mitigate this risk, the information-sharing requirements should be included in the contract and addressed in the legal framework.
- R23. If the contract does not clearly specify performance indicators, reference levels, and penalties or deductions, the government may face significant risks for not being able to address poor performance by the private partner. Failure to monitor project performance can lead to poor contract enforcement, which has administrative, efficiency, and political costs. It may also cause difficulties in applying project cancellation clauses and possibly in using step-in rights by financiers. To mitigate this risk, (1) key performance indicators should be included in the PPP contract, with reference levels, linked to penalty mechanism (preferably automatic deductions form periodic payments); and (2) the core contract management team should be involved in contract negotiation to guarantee that performance indicators/levels are fair, measurable, and contractible, that is, able to be presented as evidence in court.
- R24. If the government does not have the capacity and procedures in place to monitor performance, it faces significant risks for not monitoring performance, which has administrative, efficiency, and political costs. To mitigate this risk, contract monitoring procedures should be in place when contracts are signed; a core contract management team should be assigned before contract closure and should be involved in contract negotiation to guarantee that contract management procedures are feasible and efficient.
- R25. Depending on whether and how the contract addresses the introduction of new technologies, technical innovation may create explicit and implicit fiscal risks for the government. To mitigate this risk, the duration of PPP contracts should not exceed the expected life cycle of the technology used in the sectors, enabling the government to respond to technological innovation within a reasonable timeframe. For PPP contracts for projects including high and low innovation components, it can be appropriate to separate the two components—for example, a hospital building from the medical equipment—into separate contracts that might be of different duration or nature; the high-tech component might not be under a PPP contract but might be undertaken as traditional public procurement.
- R26. If there is a scarcity of specialized human resources, this could lead to performance issues. To mitigate this risk, the government should reallocate human resources from other activities or plan capacity-building activities in advance.
- R27. If there is a risk of significant increases in labor costs, this may lead to project failure. To mitigate this risk, the government should plan capacity building activities ahead of time.

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Appendix 1 – PFRAM Risks and Mitigation Measures.

5. Financial

- R28. If the private partner is unable to obtain finance for project implementation, the government may face project failure before implementation starts, being forced to take over the project, re-tender, or redesign and re-tender the project. To mitigate this risk, the government should (1) undertake a proper due diligence on private bidders' financial conditions and their ability (technical and managerial) to conduct the project; (2) establish adequate qualification requirements; (3) consider bid bonds and performance bonds to discourage not suitable candidates from bidding for PPPs; and (4) require some degree of commitment by financing parties during tender for very sensitive projects in less developed financial markets
- R29. If the private partner is unable to refinance short-term financing instruments, the government may face project failure after implementation starts. In such cases, the government could (1) be required to pay compensation for capital investment, (2) take over the project, or (3) renegotiate an interim financial solution and then re-tender the project (possibly under worse cost conditions for government). To mitigate this risk, in addition to undertaking the measures listed under R28, the government may require bidders to obtain long-term financing for very sensitive projects.
- R30. If the private partner is unable to cope with excess volatility in interest rates, the government may face project failure after implementation starts. The government could (1) be required to pay compensation for capital investment, (2) assume the project, or (3) renegotiate an interim financial solution and then re-tender the project (possibly under worst cost conditions for government). To mitigate this risk, the government should undertake the measures listed under the R28.
- R31. If government contractually accepted some exchange rate risk, fiscal support may be needed in the form of compensation; it may have to paying compensation for excessive volatility of exchange rate. Also, if the private partner is unable to cope with excess volatility in the nominal exchange rate, the government may have to (1) renegotiate under stress or face project collapse and pay compensation for capital investment; or (2) assume the project and then re-tender under a different risk allocation scheme. To mitigate these risks, the government should ensure a proper consideration of exchange rate risk, which may lead to better risk sharing and proper use of hedging mechanisms.

6. Force Majeure

- R32. If there is no exact list of events to be considered force majeure tailored for the project, the government might have to pay compensation, adjust, or even terminate the contract due to force majeure events. Full or partial compensation by the government may even force the government to buy the assets or assume debt. To mitigate this risk, the scope of the force majeure events should be clearly stated in the contract, considering the legal requirements and specific project conditions. The contract should create incentives for the private partner to get insurance against some risks when insurance is available at a reasonable cost and to effectively manage risks by designing assets and managing services in ways that minimize the probability of occurrence and size of impact.

7. Material Adverse Government Actions (MAGA)

- R33. If no clear definition of events to be considered MAGA are included in the contract, the government might have to pay compensation, adjust, or even terminate the contract due to acts and omissions by public entities, potentially forcing the government to buy the assets or assume debt. To mitigate this risk, contract managers should monitor the channels through which government's actions and omissions can affect the project during the life of the contract. Executive government actions and policy changes should be carefully evaluated by the contract manager and the fiscal management team to assess any impact on the PPP contract.

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Appendix 1 – PFRAM Risks and Mitigation Measures.

8. Change Law

- R34. If the PPP contract does not identify changes in law that do and do not require compensation by the government, the government might have to pay unforeseen compensation when adjusting or even terminating the contract due to changes in law. Changes in law might also benefit the private partner and, if not considered in the contract, increase the private partner's profit margin without benefitting the government. The cost of changes in law might include compensation payments, need to buy the asset or to assume debt, or loss of potential compensation paid by the private partner to the government. To mitigate this risk, the PPP contract should clearly identify changes in law that trigger a compensation or the right to terminate and should define the consequences. In addition, legislation and public policies should be in place to efficiently deal with this risk.

9 Rebalancing of financial equilibrium

- R35. The legal framework may prescribe that the government is paying compensation and/or terminating the contract due to requirement to reinstate financial equilibrium. The government may have to pay compensation or cancel the project. To mitigate the risk from this, the PPP contract should restrict its application to the cases of force majeure, MAGA, avoiding its application to a wider range of situations.
- R36. The government might have to pay compensation and/or terminate the contract due to contract guaranteeing a rate of return for the private partner. To mitigate this risk, clauses and expectations on a guaranteed level of project rate of return or the shareholder's rate of return should be avoided.
- R37. The government might have to pay compensation and/or terminate the contract due to excessive protection against some hardships. To mitigate this risk, hardship clauses, if needed, should be precise and strict. Alternative methods to reduce excessive private sector risks should be considered, including insurance, future markets, and other hedging mechanisms.

10. Renegotiation

- R38. If the government opens an uncontrolled renegotiation process, under information asymmetry and no competitive pressure, it might jeopardize economic efficiency by allowing the private partner to transfer to the government costs and risk that had originally been accepted by the private partner, with the fiscal impact depending on the government's ability to manage the renegotiation process. To mitigate this risk, the government should have a strategic view of PPP contract management and create the capacity to renegotiate.

11. Contract Termination

- R39. If the government enters into an early termination process without clear knowledge of the consequences and procedures, the lack of clarity regarding consequences on early termination increases the private partner's bargaining power, leading to increases in the cost of termination; possibly preventing the government from cancelling non-performing contracts, or generating incentives for governments to nationalize a project or assets without proper assessment of the cost of that decision. To mitigate this risk, contracts should include a clear definition of the reasons for early termination (for example, underperformance of the private partner, public interest, or force majeure) and should present its consequences in terms of transfer of assets and responsibilities, namely, financial compensation for capital investment. Compensation should vary according to the party responsible for the early termination.
- R40. If the government terminates the contract without a clear understanding of transfer processes, including financial consequences, then (1) it may need to pay for stock of inputs or outputs; (2) human resources issues may imply financial compensation or increased current expenditures; and (3) licenses needed to continued operation may create fiscal surprises. To mitigate this risk, contracts should include a clear definition of the termination process; all financial consequences and identified gaps in the contract should be resolved by having both parties sign transfer protocols detailing the rules.

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